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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,517	09/24/2003	Rikuro Obara	051319/0060	4329
29619	7590	10/31/2005	EXAMINER	
SCHULTE ROTH & ZABEL LLP ATTN: JOEL E. LUTZKER 919 THIRD AVENUE NEW YORK, NY 10022			HANNON, THOMAS R	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/669,517

Applicant(s)

OBARA, RIKURO

Examiner

Thomas R. Hannon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005 and 21 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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The drawings were received on August 22, 2005. These drawings are accepted.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Horberg (2,953,417). Note element 23 corresponds to the claimed nut, element 11 corresponding to the claimed sleeve includes a larger diameter portion holding bearing 16, and the axle has a small diameter axle portion 13b and a large diameter axle portion 13a.

Claims 1, 8, 11, 12, 14, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Beaman. Note that the sleeve 40 includes a smaller and larger diameter portion, as does the axle.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10, 13, 29 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Standing et al. (4,173,376) in view of EP 786,604.

Standing discloses a double-row ball bearing with a preload application structure as set forth in claims 1, 10, 13, 29, and 30, with the exception of an axle having small and large diameter portions, and the sleeve having smaller and larger diameter portions. EP '604 discloses a preloaded double-row ball bearing having raceway combination as set forth in claims 1-7,

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including smaller diameter portions on both the axle portion and the sleeve portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the prior art such that the double-row preloaded bearings are modified to the variants taught and suggested by EP '604.

Claims 1-8, 11, 12, 14, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyatake et al. (4,719,352) in view of EP '604.

Miyatake discloses a double-row ball bearing with a preload application structure as set forth in claims 1, 2, 8, 11, 12, 14, and 29, with the exception of the sleeve having smaller and larger diameter portions. EP '604 discloses a preloaded double-row ball bearing having raceway combination as set forth in claims 1-7, including smaller diameter portions on both the axle portion and the sleeve portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the prior art such that the double-row preloaded bearings are modified to the variants taught and suggested by EP '604.

Claims 1-10, 12, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogata et al. (5,000,589) in view of EP '604.

Ogata discloses a double-row ball bearing with a preload application structure as set forth in claims 1, 8-10, 12, and 29, with the exception of an axle having small and large diameter portions. EP '604 discloses a preloaded double-row ball bearing having raceway combination as set forth in claims 1-7, including smaller diameter portions on both the axle portion and the sleeve portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the prior art such that the double-row preloaded bearings are modified to the variants taught and suggested by EP '604.

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Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaman as applied to claim 1 and further in view of EP 786,604. EP '604 discloses a preloaded double-row ball bearing having raceway combination as set forth in claims 2-7, including smaller diameter portions on both the axle portion and the sleeve portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the prior art such that the double-row preloaded bearings are modified to the variants taught and suggested by EP '604.

Applicant's arguments filed August 22, 2005 have been fully considered but they are not persuasive.

In response to the drawing objection, Applicant has submitted replacement drawings. These drawing are accepted, and the objection is withdrawn.

In response to the objection to the disclosure, Applicant has amended the specification, and the objection is now withdrawn.

The rejections under 35 U.S.C. 112 are overcome by Applicants amendments.

With respect to the rejections made under 35 U.S.C. 102, Applicant avers that it is clear that neither Horberg nor Beaman (the only two references still applied under 102) teach or disclose a sleeve having two differing diameters, nor an axle having two differing diameter. However, as noted in the rejection above, this is not the case. Each of the references includes such a disclosure and thus still anticipates the claims.

With respect to the rejections under 35 U.S.C. 103 over the Matsuoka reference, Applicant has filed a Terminal Disclaimer in accordance with 37 CFR 1.321(c). This rejection is withdrawn.

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With respect to the rejection based on EP'604, and the Terminal Disclaimer filed under 37 CFR 1.130, it is noted that 37CFR 1.130(b) is for obviating a double patenting rejection. No such rejection is made. The rejection is under 35 USC 103, and while 37 CFR 1.130(a) provides provision for overcoming a rejection based on a commonly owned patent as prior art, these provisions are for "a U.S patent or U.S. patent application publication which is not prior art under 35 U.S.C. 102(b)". AS the prior art in the rejection above is not a U.S. patent, the provisions of 37 CFR 1.130 do not apply, nor do they apply because the reference qualifies a prior art under 35 U.S.C. 102(b).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas R. Hannon whose telephone number is (571) 272-7104. The examiner can normally be reached on Monday-Thursday (8:30-7:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thomas R. Hannon  
Primary Examiner  
Art Unit 3682

trh